

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

AN JON MARQUIS DOWGLAS,

Plaintiff,

V.

METRO GOLDWYN-MAYER and AMAZON,

Defendants.

No. 2:23-cv-02245 KJM AC PS

ORDER

Plaintiff is proceeding in this action pro se. This matter was accordingly referred to the undersigned by E.D. Cal. 302(c)(21). Plaintiff has filed a request for leave to proceed in forma pauperis (“IFP”), and has submitted the affidavit required by that statute. See 28 U.S.C. § 1915(a)(1). The motion to proceed IFP will therefore be granted.

I. SCREENING

The federal IFP statute requires federal courts to dismiss a case if the action is legally “frivolous or malicious,” fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). Plaintiff must assist the court in determining whether or not the complaint is frivolous, by drafting the complaint so that it complies with the Federal Rules of Civil Procedure (“Fed. R. Civ. P.”). The Federal Rules of Civil Procedure are available online at www.uscourts.gov/rules-policies/current-rules-practice-procedure/federal-rules-civil-procedure.

Under the Federal Rules of Civil Procedure, the complaint must contain (1) a “short and plain statement” of the basis for federal jurisdiction (that is, the reason the case is filed in this court, rather than in a state court), (2) a short and plain statement showing that plaintiff is entitled to relief (that is, who harmed the plaintiff, and in what way), and (3) a demand for the relief sought. Fed. R. Civ. P. 8(a). Plaintiff’s claims must be set forth simply, concisely and directly. Fed. R. Civ. P. 8(d)(1). Forms are available to help pro se plaintiffs organize their complaint in the proper way. They are available at the Clerk’s Office, 501 I Street, 4th Floor (Rm. 4-200), Sacramento, CA 95814, or online at www.uscourts.gov/forms/pro-se-forms.

A claim is legally frivolous when it lacks an arguable basis either in law or in fact. Neitzke v. Williams, 490 U.S. 319, 325 (1989). In reviewing a complaint under this standard, the court will (1) accept as true all of the factual allegations contained in the complaint, unless they are clearly baseless or fanciful, (2) construe those allegations in the light most favorable to the plaintiff, and (3) resolve all doubts in the plaintiff’s favor. See Neitzke, 490 U.S. at 327; Von Saher v. Norton Simon Museum of Art at Pasadena, 592 F.3d 954, 960 (9th Cir. 2010), cert. denied, 564 U.S. 1037 (2011).

The court applies the same rules of construction in determining whether the complaint states a claim on which relief can be granted. Erickson v. Pardus, 551 U.S. 89, 94 (2007) (court must accept the allegations as true); Scheuer v. Rhodes, 416 U.S. 232, 236 (1974) (court must construe the complaint in the light most favorable to the plaintiff). Pro se pleadings are held to a less stringent standard than those drafted by lawyers. Haines v. Kerner, 404 U.S. 519, 520 (1972). However, the court need not accept as true conclusory allegations, unreasonable inferences, or unwarranted deductions of fact. Western Mining Council v. Watt, 643 F.2d 618, 624 (9th Cir. 1981). A formulaic recitation of the elements of a cause of action does not suffice to state a claim. Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555-57 (2007); Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009).

To state a claim on which relief may be granted, the plaintiff must allege enough facts “to state a claim to relief that is plausible on its face.” Twombly, 550 U.S. at 570. “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the

reasonable inference that the defendant is liable for the misconduct alleged.” Iqbal, 556 U.S. at 678. A pro se litigant is entitled to notice of the deficiencies in the complaint and an opportunity to amend, unless the complaint’s deficiencies could not be cured by amendment. See Noll v. Carlson, 809 F.2d 1446, 1448 (9th Cir. 1987), superseded on other grounds by statute as stated in Lopez v. Smith, 203 F.3d 1122 (9th Cir.2000)) (en banc).

II. THE COMPLAINT

7 Plaintiff sues the Amazon Corporate Headquarters, located in Seattle, Washington, and
8 the Metro Goldwyn Meyer film company, located in Beverly Hills, California. ECF No. 1 at 2.
9 Plaintiff alleges there is federal jurisdiction for this case under 28 U.S.C. § 1331, federal question
10 jurisdiction. Id. at 3. Plaintiff alleges, as the basis for federal question jurisdiction, “use of
11 intellectual property violation of privacy in pursuit of my happiness. Use of my real life situation
12 and likeness. Most of the time a player you name in rhyme.” Id. at 4. Plaintiff alleges his life is
13 being “copied most of the time someone that rhymes with AnJon. Real encounters [sic.] without
14 asking for permission. All the way up to stealing intellectual property. It is a violation of my
15 rights I would like to be paid for this use.” Id. at 5. Plaintiff contends he has suffered \$75,000 in
16 damages. Id. at 6.

III. FAILURE TO STATE A CLAIM

The complaint does not contain a “short and plain” statement setting forth the basis for federal jurisdiction, plaintiff’s entitlement to relief, or the relief that is sought, even though those things are required by Fed. R. Civ. P. 8(a)(1)-(3). The exact nature of what happened to plaintiff is unclear from the complaint, which does not contain any clearly identifiable facts explaining how plaintiff’s rights were violated. The court cannot tell from examining the complaint what legal wrong was done to plaintiff, by whom and when, or how any alleged harm is connected to the relief plaintiff seeks. For example, though plaintiff alleges his intellectual property rights were violated by defendants using a name that rhymes with his own, he does not explain how or where the name was used, or why its use violates his rights. Further, through plaintiff generally alleges his rights were violated, he does not identify any federal laws or constitutional provisions that give him a legal cause of action. Rather than recommending dismissal of the action, the

1 undersigned will provide plaintiff an opportunity to amend his complaint to allege facts
2 supporting a cognizable cause of action.

3 IV. AMENDING THE COMPLAINT

4 If plaintiff chooses to amend the complaint, the amended complaint must allege facts
5 establishing the existence of federal jurisdiction. In addition, it must contain a short and plain
6 statement of plaintiff's claims. The allegations of the complaint must be set forth in sequentially
7 numbered paragraphs, with each paragraph number being one greater than the one before, each
8 paragraph having its own number, and no paragraph number being repeated anywhere in the
9 complaint. Each paragraph should be limited "to a single set of circumstances" where
10 possible. Rule 10(b). As noted above, forms are available to help plaintiffs organize their
11 complaint in the proper way. They are available at the Clerk's Office, 501 I Street, 4th Floor
12 (Rm. 4-200), Sacramento, CA 95814, or online at www.uscourts.gov/forms/pro-se-forms.

13 Plaintiff must avoid excessive repetition of the same allegations. Plaintiff must avoid
14 narrative and storytelling. That is, the complaint should not include every detail of what
15 happened, nor recount the details of conversations (unless necessary to establish the claim), nor
16 give a running account of plaintiff's hopes and thoughts. Rather, the amended complaint should
17 contain only those facts needed to show how the defendant legally wronged the plaintiff.

18 The amended complaint must not force the court and the defendants to guess at what is
19 being alleged against whom. See McHenry v. Renne, 84 F.3d 1172, 1177 (9th Cir. 1996)
20 (affirming dismissal of a complaint where the district court was "literally guessing as to what
21 facts support the legal claims being asserted against certain defendants"). The amended
22 complaint must not require the court to spend its time "preparing the 'short and plain statement'
23 which Rule 8 obligated plaintiffs to submit." Id. at 1180. The amended complaint must not
24 require the court and defendants to prepare lengthy outlines "to determine who is being sued for
25 what." Id. at 1179.

26 Also, the amended complaint must not refer to a prior pleading in order to make plaintiff's
27 amended complaint complete. An amended complaint must be complete in itself without
28 reference to any prior pleading. Local Rule 220. This is because, as a general rule, an amended

1 complaint supersedes the original complaint. See Pacific Bell Tel. Co. v. Linkline
2 Communications, Inc., 555 U.S. 438, 456 n.4 (2009) (“[n]ormally, an amended complaint
3 supersedes the original complaint”) (citing 6 C. Wright & A. Miller, Federal Practice &
4 Procedure § 1476, pp. 556-57 (2d ed. 1990)). Therefore, in an amended complaint, as in an
5 original complaint, each claim and the involvement of each defendant must be sufficiently
6 alleged.

7 **V. PRO SE PLAINTIFF'S SUMMARY**

8 Your motion to proceed without paying the filing fee is granted. However, it is not clear
9 that this case can proceed in federal court. The court cannot tell from your complaint what legal
10 harm was done to you. Because the complaint as written does not explain how the defendants
11 violated your intellectual property rights, or what specific federal laws you are suing under, it will
12 not be served on defendants. Your lawsuit cannot proceed unless you fix the problems with your
13 complaint.

14 You are being given 30 days to submit an amended complaint that provides a proper basis
15 for federal jurisdiction. If you submit an amended complaint, it needs to explain in simple terms
16 what laws or legal rights of yours were violated, by whom and how, and how those violations
17 impacted each plaintiff. Without this information, the court cannot tell what legal claims you are
18 trying to bring against the defendants. If you do not submit an amended complaint by the
19 deadline, the undersigned will recommend that the case be dismissed.

20 **VI. CONCLUSION**

21 Accordingly, IT IS HEREBY ORDERED that:

- 22 1. Plaintiff's request to proceed in forma pauperis (ECF No. 2) is GRANTED;
- 23 2. Plaintiff shall have 30 days from the date of this order to file an amended complaint that
24 complies with the instructions given above. If plaintiff fails to timely comply with this
25 order, the undersigned may recommend that this action be dismissed.

26 DATED: October 13, 2023

27 
28 ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE